IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL REVN.APPLICATION NO.402 OF 2006

Mr. Kulbhushan Gupta .. ..Applicant

Versus

The State of Maharashtra & Anr. .. ..Respondents

Mr.Sandesh D.Patil with Mr. S.R.Saudagar for applicant

Mrs.S.r.Kumbhat for respondent no.2

Mr.S.S.Pednekar, APP for State

CORAM : S.C.DHARMADHIKARI,J.

DATE : 13TH NOVEMBER, 2006

P.C.:

1. After this application was argued for some time Mr. Patil does not press the same on merits and instead makes a request that the direction of this Court issued on 12.10.2006 not to arrest the applicant be continued further so as to enable the applicant to make payment under the cheques which have been dishonoured.

2. Even otherwise, I do not find this is a fit case for interference in the revisional jurisdiction of this court. The concurrent findings are based on material produced which go to show that there was a legally enforceable debt and the complaint was maintainable in law. The contention with regard to the cheques being given as a co-llateral security has also been negatived by the courts below and I am in agreement with the conclusion of the trial court as also appellate court in that behalf. The liability is undisputed so also the dishonour of cheques worth Rs.15 lakhs.

3. The revision application is dismissed. The appilcant has deposited Rs.2 lakhs in this court. However, the applicant not to be arrested till 15th January 2007 provided he deposits in this Court a further sum of Rs.5 lacs and the balance sum of Rs.8 lacs under the dishonoured cheques by 30th June, 2007. The applicant who is present in court makes a statement through Mr. Patil that he would deposit a sum of Rs.5 lacs by 15th January 2007 and further a sum of Rs.8 lacs, which is the balance amount, would also be deposited by 30th June, 2007.

4. Needless to state that breach of the assurances given to this court through counsel would entail in the order not to arrest the applicant coming to an end and the applicant then be taken into custody. In addition, applicant can be proceeded for breach of undertaking given to this court as well.

5. Needless to add that the applicant shall not be arrested till 15th January 2007. If the amount of Rs.5 lacs as undertaken is deposited then the applicant shall not be arrested till 30th June, 2007. It is clarified that if the amounts are deposited, as above, the offence to stands compounded and there upon all proceedings would come to an end automatically. The applicant would not be required to surrender to custody in that event.

6. The original complainant is permitted to withdraw the sum of Rs.2 lacs as also further sums deposited in this court. They would not be required to furnish any security.

(S.C. Dharmadhikari, J.)